Datatreasury Corporation v. Wells Fargo & Company et al Doc. 661

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

DATATREASURY CORPORTION	§	
Plaintiff/Counter-Defendant	§	
	§	
vs.	§	No. 2:06cv72 (DF)
	§	Jury Trial Demanded
WELLS FARGO & COMPANY; et al	§	
Defendants/Counter-Plaintiff	§	

DATATREASURY'S ANSWER TO FIRST-CITIZENS BANK & TRUST COMPANY'S FIRST AMENDED COUNTERCLAIM

Plaintiff/Counter-Defendant DataTreasury Corporation hereby files its Answer to First-Citizens Bank & Trust Company ("First Citizens") First Amended Counterclaim and in support thereof, states as follows:

1. In paragraph 1 of Defendants' First Amended Counterclaim, First Citizens has incorporated Paragraphs 94 through 102 which are affirmative defenses by Defendant First Citizens, for which Defendant has the burden of proof and no response is required by Plaintiff/Counter-Defendant. However, in the event any response would be required by Plaintiff/Counter-Defendant, DataTreasury Corporation responds to each of the affirmative defenses contained in paragraphs 94 through 102 as denied.

2. Plaintiff/Counter-Defendant admits the allegations in paragraph 2 of First Citizens First Amended Counterclaim.

3. Plaintiff/Counter-Defendant admits the allegations in paragraph 3 of First Citizens First Amended Counterclaim.

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4. Plaintiff/Counter-Defendant agrees that an actual controversy exists between DataTreasury and First Citizens because DataTreasury has sued First Citizens as alleged in paragraph 4 of First Citizens First Amended Counterclaim.

5. Plaintiff/Counter-Defendant denies the allegations in paragraph 5 of First Citizens First Amended Counterclaim.

6. Plaintiff/Counter-Defendant denies the allegations in paragraph 6 of First Citizens First Amended Counterclaim.

7. Plaintiff/Counter-Defendant denies the allegations in paragraph 7 of First Citizens First Amended Counterclaim.

8. Plaintiff/Counter-Defendant denies the allegations in paragraph 8 of First Citizens First Amended Counterclaim.

9. Plaintiff/Counter-Defendant denies the allegations in paragraph 9 of First Citizens First Amended Counterclaim.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff/Counter-Defendant prays for judgment against Defendants/Counter-Plaintiffs as follows:

A. For judgment dismissing the counterclaims with prejudice;

B. For a declaration that this is an exceptional case, and an award to Plaintiff/Counter-Defendant of its costs and attorneys' fees incurred herein;

C. An award of the costs of this action; and

D. That Plaintiff/Counter-Defendant be awarded such other and further relief as the Court may deem just and proper, including all relief requested in Plaintiff's Complaint.

Respectfully submitted,

____________/S/______________________

EDWARD L. VON HOHN, Attorney in Charge
State Bar No. 09813240
ROD COOPER
State Bar No. 90001628
EDWARD CHIN
STATE BAR NO. 50511688
NIX PATTERSON & ROACH LLP
5215 N. O'Connor Blvd. Ste. 1900
Irving, Texas 75039
972.831.1188 (telephone)
972.692.5445 (facsimile)
rcooper@cooperiplaw.com
edchin@nixlawfirm.com
edhohn@nixlawfirm.com

C. CARY PATTERSON
State Bar No. 15587000
BRADY PADDOCK
State Bar No. 00791394
ANTHONY BRUSTER
State Bar No. 24036280
R. BENJAMIN KING
State Bar No. 24048592
NIX PATTERSON & ROACH L.L.P.
2900 St. Michael Drive, Suite 500
Texarkana, Texas 75503
903.223.3999 (telephone)
903.223.8520 (facsimile)
akbruster@nixlawfirm.com
bpaddock@nixlawfirm.com
benking@nixlawfirm.com

JOE KENDALL
State Bar No. 11260700
KARL RUPP
State Bar No. 24035243
PROVOST * UMPHREY, L.L.P.
3232 McKinney Avenue, Ste. 700
Dallas, Texas 75204
214.744.3000 (telephone)
214.744.3015 (facsimile)
jkendall@provostumphrey.com
krupp@provostumphrey.com

ERIC M. ALBRITTON
State Bar ;No. 00790215
ALBRITTON LAW FIRM
P.O. Box 2649
Longview, Texas 75606
903.757.8449 (telephone)
903.758.7397 (facsimile)
ema@emafirm.com

T. JOHN WARD, JR.
State Bar No. 00794818
LAW OFFICE OF T. JOHN WARD, JR.
P.O. Box 1231
Longview, Texas 75601
903.757.6400 (telephone)
903.757.2323 (facsimile)
jw@jwfirm.com

ATTORNEYS FOR PLAINTIFF/COUNTER-DEFENDANT,DATATREASURY CORPORATION

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document has been served on all counsel of record, via CM/ECF, on the 17th day of April, 2007.

___________/S/______________________
Edward Lewis von Hohn